

### **REMARKS/ARGUMENTS**

Claims 1 to 68 are pending. Claims 9, 12-18, 27, 30, 31, 34, 39-41, 43, 44, 51, 54, 55, 58-62 and 65-68 are objected to. Claims 9, 12, 27, 30, 39, 40, 43, 44, 51, 54, 55, 58, 62, and 68 stand rejected under 35 USC 101 as claiming non-statutory subject matter. Claims 1-68 stand rejected under 35 USC 102(b) as anticipated by Veeneman (US 5,754,981).

Before entering into the remarks in detail, the Applicant wishes to thank Examiner Fertig and Examiner Mary Cheung for the very productive telephone interview of July 22<sup>nd</sup>, which covered the objections and rejections to the claims. These remarks and amended claims represent the Applicant's perspective from the interview and any subsequent thoughts.

### **REMARKS ON OBJECTIONS TO THE CLAIMS**

Claims 9, 12-18, 27, 30, 31, 34, 39-41, 43, 44, 51, 54, 55, 58-62 and 65-68 stand objected to as being unclear whether these claims intend to further limit a preceding claim or whether they are directed to a new independent claim making reference to the preceding claims. Also these claims are objected to under 37 CFR 1.75(c) as improper definite form for failing to limit the subject matter of a previous claim. These Claims have been amended to address these objections as follows:

9. (currently amended)      ~~Said presentation~~ The system of claim 8, wherein said presentation is customized by information previously stored about at least one product purchased by said customer.

12. (currently amended)      ~~Said presentation~~ The system of claim 11, wherein said presentation is customized by information previously stored about said customer.

13. (currently amended) The system of claim 1, further comprising means for  
a first function to create at least one of said presentations used by said means  
for selecting of claim 1.

14. (currently amended) The system of claim 1, further comprising means for  
a second function that creates at least one cluster that specifies demographics;  
wherein said customer of ~~claim 1~~ has at least one of said demographics;  
and

wherein said means for selecting further includes means for selecting said  
presentation based upon said demographics of said customer matching said  
demographics of at least one of said clusters.

15. (currently amended) The system ~~Said second function~~ of claim 14,  
wherein said cluster is derived by information previously stored about said  
customer.

16. (currently amended) The system ~~Said second function~~ of claim 14,  
wherein said cluster is derived by information previously stored about at least one  
product purchased by said customer.

17. (currently amended) The ~~Said~~ system of claim 1, further comprising:  
means for said customer to interact with ~~the~~ a purchasing transaction.

18. (currently amended) The ~~Said~~ system of claim 1, further comprising:  
means for said customer to interact with ~~the~~ a payment transaction.

27. (currently amended) Said—The method of claim 24, wherein said  
customer interaction, as a product of is produced by said method—the process of  
claim 24.

30. (currently amended) ~~Said~~ The method of Claim 29, wherein said desirable information as a product of the process of claim 29 regarding said customer is produced by said method.

31. (currently amended) ~~The A method of Claim 19, further comprising the step of making said presentations used by the step of selecting of claim 19,~~ comprising the step of: a first function creating at least one of said presentations ~~used by the step of selecting.~~

34. (currently amended) The method of Claim 19, further comprising the step A method of creating demographics of said customer, comprising the step of a second function creating at least one cluster that specifies said demographics;  
~~wherein said customer of claim 19 has at least one of said demographics;~~  
and

~~wherein the step selecting further includes the step of:~~  
selecting said presentation based upon said demographics of said customer matching said demographics of at least one of said clusters.

39. (currently amended) The method of claim 19, wherein said Said electronic presentation provided by said electronic display device to said customer in said retail environment, as a product of the process of claim 19 is produced by said method.

40. (currently amended) The method of claim 19, wherein said Said presentation made available as said electronic presentation to said processing system, as a product of the process of claim 19 is produced by said method.

41. (currently amended) ~~Said An electronic display device of Claim 19,~~ providing the, comprising means for implementing the step providing said an electronic presentation to said a customer in said a retail environment for said

customer to select at least one product item based upon said electronic presentation for purchase.

said electronic display device receiving said electronic presentation from among at least two presentations based upon unique interests and needs of said customer.

43. (currently amended) Said The method of claim 42, wherein said selected new product item as a product of the process of Claim 42 is produced by said method.

44. (currently amended) Said The method of Claim 42, wherein said revenue as a product of the process of Claim 42 is produced by said method.

51. (currently amended) Said The method of claim 48, wherein said customer interaction, as a product of the process of claim 48 is produced by said method.

55. (currently amended) A The method of claim 42, further comprising the step of making at least one of said presentations used by the step of selecting of claim 42, comprising the step of: a first function creating at least one of said presentations.

58. (currently amended) Said The method of Claim 55, wherein said presentation created by said first function, as a product of the process of Claim 55 is produced by said method.

59. (currently amended) The method of Claim 42, further comprising the step of: a A second function creating at least one cluster that specifies demographics;

wherein said customer ~~of claim 42~~ has at least one of said demographics;  
and

wherein ~~said means for selecting the step providing said customer with said presentation further includes means for the step of selecting said presentation based upon said demographics of said customer matching said demographics of at least one of said clusters.~~

60. (currently amended) Said The method of Claim 59, wherein the step of said second function of claim 59, further comprising the step of: deriving said cluster by information previously stored about said customer.

61. (currently amended) Said The method of Claim 59, wherein the step of said second function of claim 59, further comprising the step of: deriving said cluster by information previously stored about at least one product purchased by said customer.

62. (currently amended) Said The method of 59, wherein said cluster created by said second function as a product of the process of claim 59 is produced by said method.

65. (currently amended) Said The method of Claim 42, wherein said electronic presentation provided by said electronic display device to said customer in said retail environment; as a product of the process of claim 42 is produced by said method.

66. (currently amended) Said The method of Claim 42, wherein said presentation made available as said electronic presentation to said processing system; as a product of the process of claim 42 is produced said method.

67. (cancelled)

68. (currently amended) *A program system comprising of at least one program step residing in a memory accessibly coupled to a computer ~~at least partly implementing at least one of the steps of Claim 42,~~*

*wherein said program system further comprises at least one of the program steps of:*

*providing a customer at least one electronic presentation on a Customer Interaction Device (CID) in a retail environment;*

*detecting said customer selecting at least one new product item based upon said electronic presentation to create a selected new product item; and*

*supporting said customer paying for said selected new product item to create a revenue.*

Consequently, the Examiner is requested to remove these objections to these Claims.

**REMARKS ON CLAIMS REJECTION UNDER 35 USC 101**

Claims 9, 12, 27, 30, 39, 40, 43, 44, 51, 54, 55, 58, 62, and 68 stand rejected as claiming non-statutory subject matter. The Examiner has stated that these claims are directed toward functions, customer interactions, desirable information, presentations, clusters and program systems that are descriptive material that is non-statutory subject matter. Also, customer interactions and revenue do not appear to be processes, machines, manufactures, or compositions of matter and are non-statutory subject matter. The Applicant disagrees and will discuss these Claims after quoting the relevant portion of MPEP 2106.01 (8<sup>th</sup> edition 6<sup>th</sup> revision, Sept. 2007 electronic format):

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relation ship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of “descriptive material” are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

The gist of the Applicants’ arguments will go to showing these various claims are directed to function descriptive material retained on some computer-readable medium permitting the function to be realized through the use of the claimed technology.

**Claims 9 and 12** stand rejected as claiming non-statutory subject matter directed toward presentations that the Examiner has argued are descriptive material, which is non-statutory

subject matter. The Applicant disagrees. These presentations are functional. They are used to create the electronic presentations that direct the electronic display device and inherit the limitations of the parent Claim 1, where these presentations are selected from at least two presentations that are retained over time in a memory and in both claims customized by information stored about the customer and/or at least one purchase the customer has previously made.

9. (currently amended) ~~Said presentation~~ The system of claim 8 1, wherein said presentation is customized by information previously stored about at least one product purchased by said customer.

12. (currently amended) ~~Said presentation~~ The system of claim 11, wherein said presentation is customized by information previously stored about said customer.

Consequently, the Examiner is requested to remove this rejection from these Claims.

**Claim 27** stands rejected as claiming non-statutory subject matter as directed toward customer interactions that the Examiner has argued are descriptive material, which is non-statutory subject matter. Further, the Examiner has stated that customer interactions do not appear to be processes, machines, manufactures, or compositions of matter and thus are also non-statutory subject matter. The Applicant disagrees, the customer interactions are functional, stimulating the purchase of product items and the generation of revenue, and are retained through logging as information regarding the customer.

27. (currently amended) ~~Said—The method of claim 24, wherein said customer interaction, as a product of is produced by said method—the process of claim 24.~~

Further, the Applicant asserts that parent claim 24 is exactly a manufacturing process. In a sales environment, the customer's interaction is the product of the claimed marketing process, which



is quite literally manufacturing the circumstances leading to the customer's interaction as claimed. This interaction has tangible results that are logged to provide desirable information about the customer as directed by Claim 26, which also depends upon Claim 24.

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 30** stands rejected as claiming non-statutory subject matter as directed toward desirable information that is descriptive material and thus non-statutory subject matter. In the interview, Mr. Jennings pointed out that there was an inconsistency between some claims discussing desirable information and information, both regarding the customer. The Examiner recommended removing the word desirable, which the Applicant has done. The Applicant disagrees in that the information regarding the customer produced by the method is functional descriptive material used as shown in Claim 32 and 33 to create and/or customize the presentations. Further, the information has been logged so that it is stored for later use by the claimed technology.

*30. (currently amended) ~~Said—The method of Claim 29, wherein said desirable information as a product of the process of claim 29 regarding said customer is produced by said method.~~*

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claims 39 and 40** stand rejected as claiming non-statutory subject matter directed toward presentations that the Examiner has argued are descriptive material, which is non-statutory subject matter. The Applicant disagrees. These presentations are functional. They are used to create the electronic presentations that direct the electronic display device and inherit the limitations of the parent Claim 1, where these presentations are selected from at least two presentations that are retained over time in a memory and in both claims customized by information stored about the customer and/or at least one purchase the customer has previously made.

39. (currently amended) The method of claim 19, wherein said Said electronic presentation provided by said electronic display device to said customer in said retail environment; ~~as a product of the process of claim 19 is produced by said method.~~

40. (currently amended) The method of claim 19, wherein said Said presentation made available as said electronic presentation to said processing system; ~~as a product of the process of claim 19 is produced by said method.~~

Consequently, the Examiner is requested to remove this rejection from these Claims.

**Claim 43** stands rejected as claiming non-statutory subject matter without a delineation as to why this claim is so rejected. The Applicant disagrees with this rejection. The Applicant finds that the selected new product item is retained in the Consumer Interaction Device (CID) at last long enough for the overall system shown in the Figures to receive the selected new product item where again it is retained. The technology enables the selected new product item to lead to a sale and the revenue that provides.

43. (currently amended) Said The method of claim 42, wherein said selected new product item ~~as a product of the process of Claim 42 is produced by said method.~~

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 44** stands rejected as claiming non-statutory subject matter directed toward the revenue, which the Examiner argues does not appear to be processes, machines, manufactures, or compositions of matter and thus are also non-statutory subject matter. The Applicant disagrees, the revenue is the product of a process that manufactures sales to generate the revenue. The revenue is further tangible and measurable as anyone who has been paid for something they sold will attest.

44. (currently amended) Said The method of Claim 42, wherein said revenue as a product of the process of Claim 42 is produced by said method.

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 51** stands rejected as claiming non-statutory subject matter as directed toward customer interactions is descriptive material. Further, the Examiner has stated that customer interactions do not appear to be processes, machines, manufactures, or compositions of matter and thus are also non-statutory subject matter. The Applicant disagrees, the customer interactions are functional, stimulating the purchase of product items and the generation of revenue, and are retained through logging as desirable information.

51. (currently amended) Said The method of claim 48, wherein said customer interaction, as a product of the process of claim 48 is produced by said method.

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 54** stands rejected as claiming non-statutory subject matter directed toward information regarding the customer that is descriptive material and non-statutory subject matter. The Applicant disagrees in that the information is functional descriptive material used as shown in Claim 56 and 57 to create and/or customize the presentations. Further, the information has been logged so that it is stored for later use by the claimed technology.

54. (currently amended) Said ~~desirable~~ The method of Claim 53, wherein said information regarding said customer as a product of the process of claim 53 is produced by said method.

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 55** stands rejected as claiming non-statutory subject matter directed toward functions that is descriptive material that is non-statutory subject matter.

*55. (currently amended)     A The method of claim 42, further comprising the step of making at least one of said presentations used by the step of selecting of claim 42, comprising the step of: a first function creating at least one of said presentations.*

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 58** stands rejected as claiming non-statutory subject matter directed toward presentations that the Examiner has argued are descriptive material, which is non-statutory subject matter. The Applicant disagrees. These presentations are functional. They are used to create the electronic presentations that direct the electronic display device and inherit the limitations of the parent Claim 1, where these presentations are selected from at least two presentations that are retained over time in a memory and in both claims customized by information stored about the customer and/or at least one purchase the customer has previously made.

*58. (currently amended)     Said The method of Claim 55, wherein said presentation created by said first function, as a product of the process of Claim 55 is produced by said method.*

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 62** stands rejected as claiming non-statutory subject matter are directed toward clusters as descriptive material. The Applicant disagrees, in that the knowledge of which clusters the customer belongs to is used to generate and/or customize the presentations, making clusters functional descriptive material which is stored in the computer-readable memories for use by the computers to generate and/or customize the presentations.

62. (currently amended) *Said The method of 59, wherein said cluster created by said second function as ~~a product of the process of claim 59~~ is produced by said method.*

Consequently, the Examiner is requested to remove this rejection from this Claim.

**Claim 68** stands rejected as claiming non-statutory subject matter directed toward program systems that is descriptive material. The Applicant disagrees pointing out that the program system is a functional description that includes at least one program step residing in a memory accessibly coupled to a computer.

68. (currently amended) *A program system comprising of at least one program step residing in a memory accessibly coupled to a computer ~~at least partly implementing at least one of the steps of Claim 42,~~*

*wherein said program system further comprises at least one of the program steps of:*

*providing a customer at least one electronic presentation on a Customer Interaction Device (CID) in a retail environment;*

*detecting said customer selecting at least one new product item based upon said electronic presentation to create a selected new product item; and*

*supporting said customer paying for said selected new product item to create a revenue.*

Consequently, the Examiner is requested to remove this rejection from this Claim.

**REMARKS ON CLAIMS REJECTION UNDER 35 USC 102(B)**

Claims 1-68 stand rejected under 35 USC 102(b) as anticipated by Veeneman (US 5,754,981).

INDEPENDENT CLAIM 1:

Claim 1 stands anticipated by Veeneman. The Applicant disagrees, but in order to expedite prosecution, has amended this Claim to clarify the invention:

- 1. (currently amended) A system for the presentation of specific marketing presentations to customers in a retail environment, comprising:*
- an electronic display device providing at least one electronic presentation to a customer in said retail environment wherein said customer selects a product item based upon said electronic presentation for purchase;*
- a processing system providing said electronic presentation for said electronic display device;*
- means for said processing system to electronically deliver said electronic presentation to said electronic display device; and*
- means for selecting a presentation from at least two presentations in a memory and based upon the unique interests and needs of said customer to make available said electronic presentation to said processing system.*

The Applicant finds that Veeneman discloses a gift registry apparatus and method (title). Gift registries are operated by users to direct other people as to what to buy them and are not intended to aid the user in buying anything themselves. Consequently, Veeneman not only does not include the elements of this claim, but teaches away from those elements, disqualifying its use in an obviousness argument.

CLAIMS DEPENDENT UPON CLAIM 1:

Claims 2 to 18 depend upon Claim 1. In addition to being allowable for the novel and nonobvious features contained in them, these Claims are dependent upon Claim 1, inherit its limitations, and are allowable as argued for Claim 1. The Applicant requests that the rejection of these Claims be removed as well.

INDEPENDENT CLAIM 19:

Claim 19 stands anticipated by Veeneman. The Applicant disagrees, but in order to expedite prosecution, has amended this Claim to clarify the invention:

*19. (currently amended) A method for the presentation of specific marketing presentations to customers in a retail environment, comprising the steps of:*  
*providing at least one electronic presentation to a customer by an electronic display device in said retail environment wherein said customer selects a product item based upon said electronic presentation for purchase;*  
*providing said electronic presentation for said electronic display device by a processing system;*  
*electronically delivering said electronic presentation to said electronic display device from said processing system; and*  
*selecting a presentation from at least two presentations based upon the unique interests and needs of said customer to make available as said electronic presentation to said processing system.*

The Applicant finds that Veeneman discloses a gift registry apparatus and method (title). Gift registries are operated by users to direct other people as to what to buy them and are not intended to aid the user in buying anything themselves. Consequently, Veeneman not only does not include the elements of this claim, but teaches away from those elements, disqualifying its use in an obviousness argument.

CLAIMS DEPENDENT UPON CLAIM 19:

Claims 20 to 40 depend upon Claim 19. In addition to being allowable for the novel and nonobvious features contained in them, these Claims are dependent upon Claim 19, inherit its limitations, and are allowable as argued for Claim 19. The Applicant requests that the rejection of these Claims be removed as well.

INDEPENDENT CLAIM 41:

Claim 41 stands anticipated by Veeneman. The Applicant disagrees, but in order to expedite prosecution, has amended this Claim to clarify the invention:

*41. (currently amended) Said An electronic display device of Claim 19,  
providing the, comprising means for implementing the step providing said an  
electronic presentation to said a customer in said a retail environment for said  
customer to select at least one product item based upon said electronic  
presentation for purchase.  
said electronic display device receiving said electronic presentation from  
among at least two presentations based upon unique interests and needs of said  
customer.*

The Applicant finds that Veeneman discloses a gift registry apparatus and method (title). Gift registries are operated by users to direct other people as to what to buy them and are not intended to aid the user in buying anything themselves. Consequently, Veeneman not only does not include the elements of this claim, but teaches away from those elements, disqualifying its use in an obviousness argument.



INDEPENDENT CLAIM 42:

Claim 42 stands anticipated by Veeneman. The Applicant disagrees:

*42. (original) A method of using a Customer Interaction Device (CID) by a customer, including the steps of:*

*providing said customer at least one electronic presentation on said CID in a retail environment; wherein said electronic presentation is based upon the unique interests and needs of said customer;*

*said customer viewing said electronic presentation on said CID;*

*said customer selecting at least one new product item based upon said electronic presentation to create a selected new product item at some point in time; and*

*said customer paying for said selected new product item to create a revenue.*

The Applicant finds that Veeneman discloses a gift registry apparatus and method (title). Gift registries are operated by users to direct other people as to what to buy them and are not intended to aid the user in buying anything themselves. Consequently, Veeneman not only does not include the elements of this claim, but teaches away from those elements, disqualifying its use in an obviousness argument.

CLAIMS DEPENDENT UPON CLAIM 42:

Claims 43 to 66 depend upon Claim 42. In addition to being allowable for the novel and nonobvious features contained in them, these Claims are dependent upon Claim 42, inherit its limitations, and are allowable as argued for Claim 42. The Applicant requests that the rejection of these Claims be removed as well.

INDEPENDENT CLAIM 68:

Claim 68 stands anticipated by Veeneman. The Applicant disagrees, but in order to expedite prosecution, has amended this Claim to clarify the invention:

68. (currently amended) *A program system comprising of at least one program step residing in a memory accessibly coupled to a computer ~~at least partly implementing at least one of the steps of Claim 42.~~*

*wherein said program system further comprises at least one of the program steps of:*

*providing a customer at least one electronic presentation on a Customer Interaction Device (CID) in a retail environment;*

*detecting said customer selecting at least one new product item based upon said electronic presentation to create a selected new product item; and*

*supporting said customer paying for said selected new product item to create a revenue.*

The Applicant finds that Veeneman discloses a gift registry apparatus and method (title). Gift registries are operated by users to direct other people as to what to buy them and are not intended to aid the user in buying anything themselves. Consequently, Veeneman not only does not include the elements of this claim, but teaches away from those elements, disqualifying its use in an obviousness argument.

**SUMMARY OF THE REMARKS**

Once again, Examiners Fertig and Cheung are thanked for the telephone interview today. The objections to these Claims have been addressed. The rejections of these Claims have been addressed through amendment and/or argument, which reasonably require the removal of those rejections from the relevant claims. The amended Claims as presented do not introduce new matter, nor do they represent an agreement with the Examiner's rejections of these Claims. The amendments have been made strictly for the purpose of expediting the prosecution of this patent application.

To summarize, the Claims are now in condition for allowance, and the Examiner is requested to place this application in that condition. The Applicant invites the Examiner to contact Earle Jennings or Gregory Smith, as listed below, for a telephonic interview if doing so would expedite the prosecution of the application.

Very respectfully submitted,

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